THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.27809 OF 2005

DATED:28.12.2005

Between:

Smt.L.Shahzadi Khatoon

…Petitioner

And

Government of Andhra Pradesh, rep. by its

Principal Secretary, Revenue Department,

Secretariat, Hyderabad and others

…Respondents

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ORDER:

The petitioner claims that her father-in-law L.Mahaboob Khan purchased land admeasuring Acs.25.68 in S.No.480 in Dhone Village, under registered sale deed dt.15.8.1919 bearing document No.1164 of 1919. After death of father-in-law, the husband of the petitioner along with his brothers partitioned the land in which he got Acs.8.56 towards his share. Thereafter, husband of the petitioner and his brothers were enjoying the property separately. In June, 2005, fourth respondent issued a notice dt.9.6.2005 directing the petitioner and others to appear before him along with supporting documents. It is alleged that M/s.Gayatri Juice Industries approached the local M.L.A. for acquiring the land of the petitioner and others and that is the reason why fourth respondent issued a notice. Challenging the notice the petitioner filed

W.P.No.17968 of 2005. This Court disposed of the same on 12.8.2005 directing the fourth respondent to consider the explanation submitted by the petitioner and pass appropriate orders in the matter. This Court also directed that the petitioner shall not be dispossessed from the land pending consideration of the matter by the fourth respondent. As directed by this Court, the fourth respondent considered the matter and issued proceedings on 27.9.2005 observing that the land claimed by the petitioner in S.No.480 is Government land that the petitioner did not produce any valid documents of title, and accordingly ordered resumption of the land to the Government directing taking of possession with immediate effect for providing house sites to the poor. In this Writ Petition the proceedings of the fourth respondent dt.27.9.2005 are assailed.

The learned counsel for the petitioner vehemently contends that the land is in possession of the petitioner or her predecessors in title for more than eighty-five years and therefore, the same cannot be treated as Government land. He also would urge that when initially a notice was issued, the land was sought to be resumed as the same was required for setting up of Gayatri Juice Industries, but now the land is earmarked for provision of house sites and therefore the impugned order is unsustainable. Learned counsel also placed reliance on the orders passed by this Court in W.P.Nos.18630, 18990, 19378 and 20664 of 2005.

The petitioner was issued notice on 9.6.2005 to attend enquiry and produce necessary proof. Presumably such enquiry was done on the premise that the petitioner has been in possession of the Government land in S.No.480. The petitioner produced necessary documents and after considering the same, the impugned order has been passed resuming the land to the Government. It is a disputed question of fact as to whether the land in S.No.480 is patta land or the Government land. In either case, the petitioner has effective alternative remedy before the third respondent by filing appeal. The learned counsel for the petitioner does not dispute this. Insofar as the procedure adopted by the fourth respondent is concerned, there can be least objection, as prior notice was issued and explanation was considered. Therefore, without expressing any opinion on the merits of the case, the petitioner is given liberty to file appeal before the third respondent within a period of ten days from the date of receipt of a copy of this order. As and when such appeal is filed, third respondent shall entertain the appeal and dispose of the same within a period of four weeks thereafter duly considering all the documents produced by the petitioner before the fourth respondent. Liberty is also given to the petitioner to produce additional evidence to prove her title to the property and disprove the Government's claim. In this Writ Petition, no relief can be granted to the petitioner.

The Writ Petition with the above observations is accordingly dispose of.

(V.V.S.RAO, J)

28.12.2005

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